

**ANDOVER CITY PLANNING COMMISSION /**  
**BOARD OF ZONING APPEALS**  
**January 18, 2011**  
**Minutes**

The Andover City Planning Commission met for a regular meeting on Tuesday, January 18, 2011 at 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:00 p.m. Commission members present were Lynn Heath, John Cromwell, Byron Stout, Troy Tabor, Ken Boone and Andrew Hart. Others in attendance were City Council Liaison Member Julie Reams, City Administrator Sasha Stiles, Assistant City Administrator Jennifer McCausland, Director of Public Works and Community Development Les Mangus and Administrative Secretary Daynna DuFriend. Members absent were Jan Cox.

Call to order

**Review the minutes of the December 21, 2011 Planning Commission meeting.**

Review the minutes

*Byron Stout made a motion to approve the minutes as presented. John Cromwell seconded the motion. Motion carried 6/0/1 with Ken Boone abstaining.*

**Communications:**

Communications

**Review the minutes of the November 30, 2010 and December 14, 2010 City Council meetings.** The minutes were received and filed.

**Review the minutes of the November 2, 2010 Site Plan Review Committee Meeting.** The minutes were received and filed.

**Review the Potential Residential Development Lot Report.**

Annexation

**Annexation-** A recommendation to City Council on the annexation of the property located at 16051 SW 123<sup>rd</sup> Terrace.

**From Les Mangus' Memo:** In order to hear case Z-2010-02 & SU-2010-03 the subject property must be annexed into the city. The action tonight is to consider a recommendation to the City Council to annex the property. The property is adjacent to Andover Rd. Access to Andover Rd. could be granted. Public water and sewer are available if needed. Staff supports the annexation as requested.

Chairman Coon asked Les Mangus for staff comments. This petition is only for the subject property of the next zoning case. It is a portion of a lot in the Mockingbird Meadows Subdivision on South Andover Road. This request is for only a portion of this lot to be annexed, not the entire subdivision. It is the South 385ft. this particular lot which is basically from the house to the south.

Les Mangus asked the public to refrain from commenting until the Commission calls for the public hearing.

John Cromwell asked if this was isolated from the rest of the City limits. Les Mangus explained that the Flint Hills National Golf Course across the street is all within the City limits. John Cromwell asked if the property on the west side of Andover Road was currently in the City limits. Les Mangus said none of the property is in the City limits today.

Lynn Heath asked if anything from 120<sup>th</sup> south in the City limits. Les Mangus said not on the West side of Andover Road.

Chairman Coon asked if the applicant was present. Les Mangus said the applicant is Jeff Strain and he is not present. He suggested that the Commission continue on to the next item on the agenda and comeback to this item. If the applicant is not here then continue request to next meeting. This was agreed to by members.

**Z-2010-04-** Proposed change of zoning district classification from the R-2 Single-Family Residential district to the B-2 Neighborhood business district at 1127 N. Andover Rd.

Z-2010-04

**From Les Mangus' memo:** The owner of the office building at 1145 N. Andover Rd. has purchased 20 feet of property from the lot adjacent to the south in order to add parking spaces for the office building. A change in zoning is necessary in order to allow parking. Staff supports the application.

Les Mangus explained that this particular property has an office/retail building on Lot 2 of the Anna Addition. They have a Conditional Use on a portion of the lot next to it for parking. They are still shy of parking and the owner has now purchased a portion of the property adjacent to the south in order to add more parking stalls. The applicant is here tonight to zone this property as Business so that it can be used for additional parking.

Jack Newman, property owner/applicant was present to represent the application.

Mr. Newman explained that this building is now at 90% occupancy. Parking is not a current problem however, two of the retail tenants have expressed concerns as to future parking. He has purchased 20 feet of property from the landowner to the south at 1127 N. Andover Road. There is 35 feet between the house at 1127 N. Andover Road and the property line. There is a light pole and a mail box that will be moved. There will be nine parking spaces added.

#### ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 7

#### SPECIAL USE REPORT \*

CASE NUMBER:	Z-2010-04
APPLICANT/AGENT:	Newman Investments, LLC/Jack Newman
REQUEST:	Change of zoning district classification from R-2 Single Family Residential to B-2 Neighborhood Business District.
CASE HISTORY:	The subject property is a property boundary shift to allow the applicant to add parking spaces.
LOCATION:	1127-1145 N. Andover Rd.
SITE SIZE:	20'X112'
PROPOSED USE:	More property for additional parking.

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-1 applicant's office/retail building  
South: R-2 single family residence  
East: R-2 single family residence  
West: R-2 single family residence

**Background Information:** The applicant desires to expand the parking for his existing office retail building.

\* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their special use recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant's reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

**FACTORS AND FINDINGS:**

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

YES    NO

STAFF:

PLANNING: R-2 South, East & West

COUNCIL:

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? (See Adjacent Zoning on page 1 of 4)

YES    NO

STAFF:

PLANNING: R-2 South, East & West

COUNCIL:

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES    NO

X STAFF:

X PLANNING:

## COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?

YES NO

STAFF: All are in place and adequate..  
 PLANNING:  
COUNCIL:

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights of way, easements access control or building setback lines?

YES NO

STAFF: Dedication of minimum R/W for Andover Rd. could be done by separate instrument.  
 PLANNING:  
COUNCIL:

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO

STAFF: Screening is required  
 PLANNING:  
COUNCIL:

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

YES NO

STAFF: N.A.  
PLANNING:

## COUNCIL:

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

11. Is the subject property suitable for the current zoning to which it has been restricted?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF: Increased activity and lighting in the area.  
 PLANNING:  
COUNCIL:

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

STAFF: Case by case review of commercial applications along Andover Rd.  
 PLANNING:  
COUNCIL:

15. What is the nature of the support or opposition to the request?

YES NO

STAFF: None at this time.  
PLANNING:  
COUNCIL:

16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES    NO

STAFF:      Approval contingent on dedication of the minimum R/W for Andover Rd..

PLANNING:  
COUNCIL:

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

YES    NO

STAFF:

PLANNING:  
COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the special use application, I Lynn Heath, move that we recommend to the Governing Body that Case No. 2010-04 be approved changing zoning district classification from R-2 to B-2 District based on the findings 7, 8, 14 and 16 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Ken Boone. Motion carried 7/0.*

Les Mangus noted this case will be heard by the City Council on February 8, 2011.

Chairman Coon stated returning to agenda item number 5.

Les Mangus stated that the applicant was contacted and that he would not be able to attend this meeting and suggested that this public hearing be continued to the next meeting.

**Z-2010-02- & SU-2010-03-** A proposed change of zoning district classification from the Butler County Rural Residential District (RR) to the City of Andover B-1 Office Business District at 16051 SW 123rd Terrace and a special use request to establish a mini-storage facility at 16051 SW 123rd Terrace.

Z-2010-02- & SU-2010-03

From Les Mangus' memo: The proposed change of zoning district classification from the Butler County Rural Residential District (RR) to the City of Andover B-1 Office Business District at 16051 SW 123rd Terrace and a special use request to establish a mini-storage facility at 16051 SW 123rd Terrace is the desire of the applicant to build a storage facility adjacent to his residence. No development plan has been submitted but the area around the subject property has some commercial uses. Staff supports the application contingent on a suitable site plan and screening.

Several members of the audience asked to be heard.

Chairman Coon replied that although they would not be able to make a decision they could hear their comments.

Chairman Coon opened the public hearing at 7:20 p.m.

Eric Kidwell of 16111 SW 123<sup>rd</sup> Terrace, this also being the address of his parents who are in the audience, stated that they moved to this area for the purpose of being away from everything in the city. To have someone put any kind of commercial entity would ruin the entire purpose including the covenants that already exist in Meadowlark. You're inviting crime. You're inviting an unwanted element and it's ludicrous that someone would want to annex it for any type of commercial reason considering the million dollar homes across the street. If everybody moved out there with the intent to get away from that and then someone wants to do that the value of the property is going to drop dramatically.

Dwight Hohlfeld of 16149 SW 123<sup>rd</sup> Terrace stated that it was strange that the applicant wanted to annex only half of the property. He said that he spoke to his neighbors today and has a petition signed by 15 people that are 100% opposed to this project. The restrictive covenants do not allow this type of project. Chairman Coon asked if they had a homeowners association. Mr. Hohlfeld said that they do not have a board set up on the homeowners association.

Chairman Coon asked for additional comments.

Roger Hollingshead 16067 SW 123<sup>rd</sup> Terrace stated that he didn't understand why the commission was intent on letting the applicant put this project in. Chairman Coon replied that no one said they were intent, they are just trying to hear the facts.

Abul Azad of 12377 SW Mockingbird stated that he moved to the neighborhood just about 12 years ago for the peace and quiet and the beautiful area that it is. He said that this area is in the Rose Hill school district and questioned why the City of Andover would go into another school district and try to annex the property. Chairman Coon said that school districts and political districts do not mix.

Tom Mack of Devlin Enterprises, which is the developer of the Flint Hills National residential development, stated that they want to go record that they are opposed the annexation and the zoning change as well. They feel that the storage units are not compatible with the rural residential area surrounding the proposed project. He said they had heard that the applicant feels the tenants for these storage units are Flint Hills National homeowners. They have surveyed their homeowners and have yet to find anyone that is excited about this project. Byron Stout said that was a question he had and why he would have liked the applicant to be present in order to ask those specific questions.

Leisa Schon of 16195 SW 123<sup>rd</sup> Terrace stated that entrance is the main entrance to the Mockingbird Addition residential neighborhood. And therefore does not believe a commercial building should be at the main entrance.

Joe Voss of 12291 SW Valleyview asked if this does get zoned commercial is it always going to stay as commercial and can anything go in there at that point. Lynn Heath said they are asking for B-1 which is Office Business. Chairman Coon stated that there are general uses for B-1 however part of our considerations are restricted uses too.

Mike Madewell of 16311 SW 123<sup>rd</sup> Terrace stated he did not receive a

notification as he was beyond the 1000 feet of the property and asked if he would receive notification of the next meeting from being at this meeting. Les Mangus said no further mailed notices will go out your notice of any continuation of this hearing is here tonight. Mr. Madewell also stated that he is opposed to the project.

Jim Maddox of 12332 SW Valleyview stated that he is totally against this project and strongly urge the commission to deny the applicants request.

Chairman Coon asked for any comments.

Chairman Coon closed the public hearing at 7:55 p.m.

Byron Stout asked how zoning and covenant conflicts resolved. Les Mangus said the City has no position in restrictive covenants. That is an agreement between the property owners and the subdivision so we can't enforce covenants. That would be an action of one owner against another.

John Cromwell asked what the zoning of the Premier land to the south, 1/4 mile south of the proposed location. Les Mangus said he did not know that zoning it is part of the County. The Butler County Planning Director asked this applicant to apply to the City of Andover rather than go to the County for a business application since it is adjacent to the City limits. Byron Stout asked if this body denies it, is there a way the County would try to do anything. Les Mangus said he did not know. Byron Stout asked if there was any avenue for the County to do anything. Les Mangus said yes.

Ken Boone asked why we would be obligated to continue this on since the applicant was not present. Les Mangus that it would not be a fair public hearing to this applicant to not be able to rebut. John Cromwell said that the applicant would just re-file and it would be heard in 2 months rather than 1 month. Chairman Coon said it is the commissions' interest to hear all sides.

*Lynn Heath made a motion to continue agenda item number 5 and number 6 to the February 15, 2011 meeting to be held at the new City Hall, 1609 E. Central Ave. Andrew Hart seconded the motion. Motion carried 6/0/1. Byron Stout opposed.*

**Member Items:** No member items.

Member Items:

*Lynn Heath made a motion to adjourn the meeting at 8:04 p.m. Byron Stout seconded the motion. Motion carried 7/0.*

Respectfully Submitted by

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Daynna DuFriend  
Administrative Secretary

Approved this 15th day of February, 2011 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.